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|------------------------------------|-------------|----------------------|------------------------|------------------|
| APPLICATION NO.                    | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
| 10/598,648                         | 06/20/2007  | Rodney Julian Parker | 040857/316148          | 8495             |
| 826                                | 7590        | 08/20/2008           | EXAMINER               |                  |
| ALSTON & BIRD LLP                  |             |                      | GRANO, ERNESTO ARTURIO |                  |
| BANK OF AMERICA PLAZA              |             |                      | ART UNIT               | PAPER NUMBER     |
| 101 SOUTH TRYON STREET, SUITE 4000 |             |                      | 3728                   |                  |
| CHARLOTTE, NC 28280-4000           |             |                      | MAIL DATE              |                  |
|                                    |             |                      | 08/20/2008             |                  |
|                                    |             |                      | DELIVERY MODE          |                  |
|                                    |             |                      | PAPER                  |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |
|------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/598,648 | <b>Applicant(s)</b><br>PARKER, RODNEY JULIAN |
|                              | <b>Examiner</b><br>ERNESTO A. GRANO  | <b>Art Unit</b><br>3728                      |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06/10/2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 21-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 21-23, 29, 34, 35 and 37 is/are rejected.

7) Claim(s) 24-28, 30-33, 36, and 38 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

Receipt is acknowledged of Applicant's amendment filed on 06/10/2008.

- Claims 21- 38 are presented for examination.

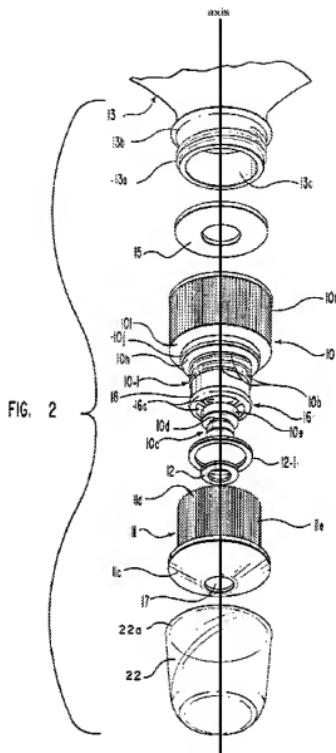
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-23, 29, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Groesbeck (US 5,810,185).



In re claim 21, with reference to figure 2 above, Groesbeck discloses a shot dispenser comprising:

- a housing 11 having an axis, a base 11c transverse to said axis, and a wall 11d upstanding from said base 11c and defining an enclosure, the housing 11 defining an outlet 17 (see figure 2 above)

- a chamber 10-1 within said housing 11 (see figure 3) and relatively axially movable along said axis in the direction of said base 11c between a closed condition (see figure 3) in which material therein is contained in the chamber is prevented from draining through the outlet 17 past the base 11c, and an open condition (see figure 4) in which material therein can drain through the outlet 17 past said base 11c, said chamber 10-1 including a projection 18 in abutment with said wall 11d to prevent relative movement of said chamber 10-1 along said axis to the open condition (see figure 4), a removable obstruction 22 being provided to allow such relative movement in demand. (see figure 3 and 4)

In re claim 22, with reference to figure 2 above, Groesbeck discloses wherein said wall 11d comprises a continuous peripheral surround for the chamber 10-1. (see figure 2 and 3)

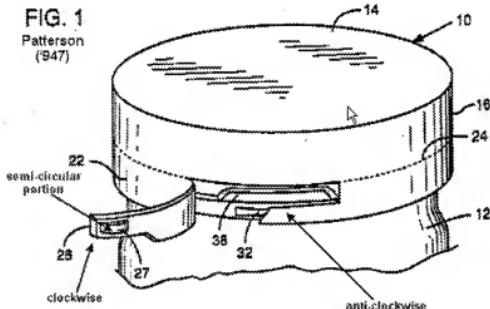
In re claim 23, with reference to figure 2 above, Groesbeck discloses wherein said base 11c is circular, and centered on said axis, an annulus 11a of said base 11c defining an the outlet 17. (see figure 4)

In re claim 29, with reference to figure 2 above, Groesbeck discloses wherein said projection 18 is a rim. (see figure 2 above)

In re claim 37, with reference to figure 2 above, Groesbeck discloses wherein the said housing 11 is capable of being adapted for leak tight fitting to the mouth of a container 13. (see figure 2)

***Claim Rejections - 35 USC § 103***

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groesbeck (US 5,810,185) in view of Patterson (US Patent 5,111,947).



In re claim 34, with reference to figure 2 above, Groesbeck discloses the claimed invention except for the obstruction comprises a tear band between the projection and wall.

Patterson ('947) teaches a tamper proof cap for use on a container comprising a removable tear band connected to the cap and attached to a rim on the housing of a container. (see figures 1 and 2)

Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have provided the removable obstruction 22 of

Groesbeck with a tear band 22 as taught by Patterson in order to help prevent tampering with the dispenser when being sold.

In re claim 35, Groesbeck and Patterson as applied to in claim 34 above, discloses wherein the tear band comprises clockwise and anti-clockwise semi-circular portions having adjacent tear tabs to be gripped in the hand. See figure 1 above

***Response to Arguments***

Applicant's arguments with respect to claim 21- 38 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

Claims 24-28, 30-33, 36, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERNESTO A. GRANO whose telephone number is (571)270-3927. The examiner can normally be reached on 7:00am - 4:00pm Mon.-Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728

/Ernesto A Grano/  
Examiner  
Art Unit 3728